

**SYSTEMS SUPPORT GROUPDIVISION  
ELECTRIC DEPARTMENT  
  
REQUEST FOR PROPOSAL  
FOR  
ENTERPRISE NETWORK ATTACHED STORAGE**

**PROPOSAL SUBMITTAL DEADLINE:**

**DATE: Monday, November 19, 2018**

**TIME: 12:00pm**

**LOCATION: 881 Martin Avenue Santa Clara, CA 95050**

**CITY OF SANTA CLARA  
SYSTEMS SUPPORT GROUPDIVISION  
ELECTRIC DEPARTMENT  
881 MARTIN AVENUE  
SANTA CLARA, CA 95050  
(408)615-6665**

# **REQUEST FOR PROPOSAL FOR ENTERPRISE STORAGE SOLUTION**

## **TITLE: NETWORK ATTACHED STORAGE**

### **1. INTRODUCTION**

The City of Santa Clara is seeking proposals from qualified firms to provide a Network Attached Storage (NAS) for SVP - Electric's Systems Support Group. Minimum requirements and a detailed description of required system specifications are included in Attachment A.

### **2. ATTACHMENTS**

The attachments below are included with this Request for Proposals ("RFP"). The items identified with an asterisk (\*) must be completed, signed by the appropriate representative of the company, and returned with the submittal.

Attachment A – Scope of NAS Features and Services\*

Attachment B – Proposer's Information Form\*

Attachment C – Certification of Non-Discrimination\*

Attachment D –Agreement for Services

Attachment E – Cost Proposal Format\*

### **3. INSTRUCTIONS TO PROPOSERS**

3.1. Pre-proposal Conference. Select one:

There is NO pre-proposal conference scheduled for this solicitation.

3.2. Examination of Proposal Documents.

The submission of a proposal shall be deemed a representation and certification by the Proposer that they:

- 3.2.1. Have carefully read and fully understand the information that was provided by the City to serve as the basis for submission of this proposal.
- 3.2.2. Have the capability to successfully undertake and complete the responsibilities and obligations of the proposal being submitted.
- 3.2.3. Represent that all information contained in the proposal is true and correct.
- 3.2.4. Did not, in any way, collude, conspire to agree, directly or indirectly, with any person, firm, corporation or other Proposer in regard to the amount, terms or conditions of this proposal.
- 3.2.5. Acknowledge that the City has the right to make any inquiry it deems appropriate to substantiate or supplement information supplied by the Proposer, and the Proposer hereby grants the City permission to make these inquiries, and to provide any and all related documentation in a timely manner.

No request for modification of the proposal shall be considered after its submission on grounds that the Proposer was not fully informed of any fact or condition.

3.3. Questions.

Any questions by the Proposer regarding this RFP or the project must be put in writing and received by the City no later than 12:00 p.m. on Monday, November 5, 2018. Correspondence shall be addressed to:

Melisa Revino  
Electric Department  
881 Martin Ave  
Santa Clara, CA, 95050  
Phone: (408) 615-6673  
Email: MRevino@SantaClaraCA.gov

The City shall not be responsible for nor be bound by any oral instructions, interpretations or explanations issued by the City or its representatives.

Responses from the City to questions by any Proposer will be communicated in writing to all recipients of this RFP. Questions received after the date and time stated above will not be accepted, and will be returned to senders without response.

3.4. Addenda.

Any addenda issued by City shall be in writing, shall become a part of this RFP, and shall be acknowledged and responded to by Proposer.

3.5 Submission of Proposals.

All proposals shall be submitted to:

Melisa Revino  
Electric Department  
881 Martin Ave  
Santa Clara, CA, 95050  
Phone: (408) 615-6673  
Email: MRevino@SantaClaraCA.gov

Please note that faxes, electronic submissions, or any media other than hard copies are not acceptable.

Proposals must be delivered no later than 12:00 p.m. on Monday, November 19, 2018. All proposals received after that time will be returned to the Proposer unopened.

The Proposer shall submit one (1) original proposal in a sealed envelope, clearly marked "Original" and one (1) soft copy in a USB flash drive addressed as noted

above, bearing the Proposer's name and address clearly marked, **"RFP FOR NETWORK ATTACHED STORAGE"**.

### 3.5. Withdrawal of Proposals.

A Proposer may withdraw its proposal at any time before the expiration of the time for submission of proposals as provided in the RFP by delivering a written request for withdrawal signed by, or on behalf of, the Proposer.

## **4. RIGHTS OF THE CITY OF SANTA CLARA**

This RFP does not commit the City to enter into a contract, nor does it obligate the City to pay for any costs incurred in preparation and submission of proposals or in anticipation of a contract. The City reserves the right to:

- Make the selection based on its sole discretion;
- Reject any and all proposals;
- Issue subsequent Requests for Proposals;
- Postpone opening proposals for its own convenience;
- Remedy errors in the Request for Proposals process;
- Approve or disapprove the use of particular sub consultants;
- Negotiate with any, all or none of the Proposers;
- Accept other than the lowest offer;
- Waive informalities and irregularities in the Proposals; and/or
- Enter into an agreement with another Proposer in the event the originally selected Proposer defaults or fails to execute an agreement with the City.

An agreement shall not be binding or valid with the City unless and until it is approved by the City Council, if so required, and executed by authorized representatives of the City and of the Proposer.

## **5. RFP TIMELINE**

The RFP Timeline is as follows:

RFP Issued	Monday, October 22, 2018
Deadline for questions, clarifications	Monday, November 5, 2018 at 12:00pm
Proposals must be submitted by	Monday, November 19, 2018 at 12:00pm

The City reserves the right to add, remove or combine steps in the timeline, and/or compress or extend the timeline as the City, in its sole discretion, sees fit.

## **6. INFORMATION TO BE SUBMITTED**

These guidelines govern the format and content of the proposal, and the approach to be used in its development and presentation. The intent of the RFP is to encourage responses that clearly communicate the Proposer's understanding of the City's requirements and its approach to successfully provide the products and/or services on time and within budget. Only that information which is essential to an understanding and evaluation of the proposal should be

submitted. Items not related to the RFP and proposal, e.g., generalized brochures, marketing material, etc., will not be considered in the evaluation.

All proposals shall address the following items. The proposals must address the items in the order listed below, and shall be numbered 1 through 8 in the proposal document. Please include a Table of Contents preceding the Chapters.

#### Chapter 1 – Proposal Summary.

This Chapter shall discuss the highlights, key features and distinguishing points of the Proposal. A separate sheet shall include a list of individuals and contacts for this Proposal and how to communicate with them. Limit this Chapter to a total of three (3) pages, including the separate sheet.

#### Chapter 2 – Profile on the Proposing Firm(s).

This Chapter shall include a brief description of the Prime Proposer's firm, including firm name, address, phone number, email address and primary contact person; brief firm history, including the current permanent staff size as well as local organization structure; and, a discussion of the firm's financial stability, capacity and resources.

Additionally, this section shall include a listing of any claim, lawsuit or litigation and the result of that action resulting from (a) any public project undertaken by the Proposer either as a contractor or subcontractor or by its subcontractors where litigation is still pending or has occurred within the last five years, or (b) any type of project where claims or settlements were paid by the consultant or its insurers within the last five (5) years.

#### Chapter 3 – Qualifications of the Firm.

This Chapter shall include a brief description of the Proposer's qualifications and previous experience supplying like services and/or equipment to similar public agencies. Include all areas of expertise, scope of services provided, and relevant experience, including description of each project, role of professional for that project and date completed. Include product provided, the total project cost, the period over which the provision and training was completed, and the name, title, phone number and email address of clients to be contacted for references. Give a brief statement of the firm's adherence to the schedule and budget for each project.

Five (5) references from clients with similar projects must be submitted along with the names and telephone numbers of contact persons.

#### Chapter 4 –Product Description, Work Plan or Proposal.

This Chapter shall present a well-articulated service plan. Include a full description of major services provided, tasks and subtasks. This section of the proposal shall establish that the Proposer understands the City's objectives and work requirements and Proposer's ability to satisfy those objectives and requirements. Succinctly describe the proposed approach for addressing the required services, providing the required product and the firm's ability to meet the

City's schedule, outlining the approach that would be undertaken in providing the requested services. Describe the project understanding, detailed project approach and methodology. List specific proposed services and support and training services to be provided.

#### Chapter 5 – Project Schedule.

This Chapter shall include a projected timeline for completing the project including the start date, order dates, delivery time, installation, and training, and shall indicate completion dates from date the order is received.

#### Chapter 6 – Project Staffing.

This Chapter shall discuss how the Proposer would staff this project. Key personnel will be an important factor considered by the review committee. Changes in key personnel may be cause for rejection of the proposal. Include proposed project management structure, including identification of the project consultant and individuals that will be assigned to the project.

#### Chapter 7 – Proposal Exceptions.

This Chapter shall discuss any exceptions or requested changes that Proposer has to the City's RFP conditions, requirements and agreement. If there are no exceptions noted, it is assumed the Proposer will accept all conditions and requirements identified in Attachment D –“Agreement for Services.” Items not excepted will not be open to later negotiation.

#### Chapter 8 – Proposal Costs Sheet and Rates.

This Chapter shall include the proposed costs to provide the services desired. Include any cost and price information, plus a not-to-exceed amount, that would be contained in a potential agreement with the City. Attachment E, “Sample Cost Proposal Format,” is included and should be used by all Proposers. The hourly rates may be used for pricing the cost of additional services outlined in the Scope of Work. The cost of the project, including the total hours and hourly rates by staff classification, and the resulting all-inclusive fee for the project must be included. Fees must include all anticipated costs, including travel, per diem, and out of pocket expenses. Please note the City of Santa Clara does not pay for services before it receives them. Therefore, do not propose contract terms that call for upfront payments or deposits.

### **7. CONTRACT TYPE AND METHOD OF PAYMENT**

It is anticipated that the agreement resulting from this RFP, if awarded, will be an Agreement for Services. The method of payment to the successful Proposer shall be for services provided based on established rates for services (Weekly Rates, Monthly Rates, etc.) with a maximum “not to exceed” fee as set by the Proposer in the proposal or as negotiated between the Proposer and the City as being the maximum cost to perform all work. This figure shall include direct costs and overhead, such as, but not limited to, materials, delivery, transportation, communications, and any subcontracted items of work.

Proposers shall be prepared to accept the terms and conditions of the Agreement, including Insurance Requirements in Attachment D. If a Proposer desires to take exception to the Agreement, Proposer shall provide the following information in Chapter 7 of their submittal package. Please include the following:

- Proposer shall clearly identify each proposed change to the Agreement, including all relevant Attachments.
- Proposer shall furnish the reasons for each proposed change, as well as specific recommendations for alternative language.

The above factors will be taken into account in evaluating proposals. Proposals that take exceptions to the proposed Agreement may be determined by the City, at its sole discretion, to be unacceptable and no longer considered for award.

## **8. INSURANCE REQUIREMENTS**

The selected Proposer(s), at Proposer's sole cost and expense and for the full term of the agreement or any extension thereof, shall obtain and maintain, at a minimum, all of the insurance requirements outlined in Attachment D.

All policies, endorsements, certificates and/or binders shall be subject to the approval of the City of Santa Clara as to form and content. These requirements are subject to amendment or waiver, if so approved in writing by the City of Santa Clara. The selected Proposer agrees to provide the City with a copy of said policies, certificates and/or endorsement upon award of contract.

## **9. REVIEW AND SELECTION PROCESS - EVALUATION CRITERIA**

City staff will evaluate the proposals provided in response to this RFP based on the following criteria:

- Quality and completeness of proposal;
- Quality, performance and effectiveness of the solution, goods and/or services to be provided by the Proposer;
- Proposer's experience, including the experience of staff to be assigned to the project, with engagements of similar scope and complexity;
- Cost to the City;
- Proposer's financial stability and length of time in business;
- Proposer's ability to perform the work within the time specified;
- Proposer's prior record of performance with City or others;
- Proposer's ability to provide future records, reports, data and/or services; and
- Proposer's compliance with applicable laws, regulations, policies (including city council policies), guidelines and orders governing prior or existing contracts performed by the contractor.

## **10. PUBLIC NATURE OF PROPOSAL MATERIAL**

Responses to this RFP become the exclusive property of the City of Santa Clara. At such time as the City awards a contract, all proposals received in response to this RFP become a matter of public record and shall be regarded as public

records, with the exception of those elements in each proposal which are defined by the Proposer as business or trade secrets and plainly marked as "Confidential," "Trade Secret," or "Proprietary." The City shall not in any way be liable or responsible for the disclosure of any such proposal or portions thereof, if they are not plainly marked as "Confidential," "Trade Secret," or "Proprietary," or if disclosure, in the City's sole discretion, is required under the California Public Records Act as addressed below. Any proposal which contains language purporting to render all or significant portions of the proposal "Confidential," "Trade Secret," or "Proprietary" shall be regarded as non-responsive.

Although the California Public Records Act recognizes that certain confidential trade secret information may be protected from disclosure, the City of Santa Clara may determine, in its sole discretion that the information that a Proposer submits is not a trade secret. If a request is made for information marked "Confidential," "Trade Secret," or "Proprietary," the City shall provide the Proposer who submitted the information reasonable notice to allow the Proposer to seek protection from disclosure by a court of competent jurisdiction, at the Proposer's sole expense.

#### **11. COLLUSION**

By submitting a proposal, each Proposer represents and warrants that its proposal is genuine and made in the interest of or on behalf of any person not named therein; that the Proposer has not directly induced or solicited any other person to submit a sham proposal or any other person to refrain from submitting a proposal; and that the Proposer has not in any manner sought collusion to secure any improper advantage over any other person submitting a proposal.

#### **12. DISQUALIFICATION**

Factors, such as, but not limited to, any of the following, may disqualify a proposal without further consideration:

- Evidence of collusion, directly or indirectly, among Proposers in regard to the amount, terms or conditions of this proposal;
- Any attempt to improperly influence any member of the evaluation team;
- Existence of any lawsuit, unresolved contractual claim or dispute between Proposer and the City;
- Evidence of incorrect information submitted as part of the proposal;
- Evidence of Proposer's inability to successfully complete the responsibilities and obligations of the proposal; and
- Proposer's default under any previous agreement with the City.

#### **13. NON-CONFORMING PROPOSAL**

A proposal shall be prepared and submitted in accordance with the provisions of these RFP instructions and specifications. Any alteration, omission, addition, variance, or limitation of, from or to a proposal may be sufficient grounds for non-acceptance of the proposal, at the sole discretion of the City.

#### **14. GRATUITIES**



No person shall offer, give or agree to give any City employee any gratuity, discount or offer of employment in connection with the award of contract by the City. No City employee shall solicit, demand, accept or agree to accept from any other person a gratuity, discount or offer of employment in connection with a City contract.

#### **15. FIRMS OR PERSONS NOT ELIGIBLE TO SUBMIT A PROPOSAL**

In order to avoid any conflict of interest or perception of a conflict of interest, Proposer(s) selected to provide professional services under this RFP will be subject to the following requirements:

15.1. The consultant or other entity who works on the procurement will be precluded from submitting proposals or bids as a prime contractor or subcontractor.

15.2. The consultant or any other entity who participated in the procurement shall not have a financial, ownership or other interest in any potential Proposer.

#### **16. PREVAILING WAGES AND DIR REGISTRATION**

16.1 Proposer Registration. The City has determined that the services described in this RFP constitute a “public work” as defined in California Labor Code section 1720 et seq. Any agreements entered into pursuant to this RFP will be subject to prevailing wage requirements, and Proposer shall comply with all applicable provisions of Labor Code sections 1720 through 1784 and California Code of Regulations title 8, section 16000 et seq. Proposer shall register with the Department of Industrial Relations (DIR) pursuant to Labor Code section 1725.5 prior to submitting a proposal. City will verify DIR registration when reviewing proposals, and submissions from Proposers who have not registered with DIR will be immediately rejected as nonresponsive.

16.2 Subcontractors. Prior to executing an agreement with the City, a successful Proposer shall require its subcontractors to be registered with the DIR, and Proposer shall include prevailing wage requirements in all subcontracts.

Contractor must provide job classifications for DIR purposes for any employees that may work on this project during the duration of the agreement.

## **ATTACHMENT A**

### **Scope of NAS Features and Services**

#### **A. Project Description NAS Storage**

The primary use of the NAS solution is User Home Directories & Files Sharing.

Our goal of the Enterprise NAS solution Project is to implement a replacement for our current SAN storage, a NAS that uses current technology and supports SMB (Windows), NFS (Linux, Unix Hosts) FTP/SFTP protocols to allow to catalog, organize and transfer file between designated file systems shares. A system that supports snapshot where a user can easily recover files from the snapshot, and restore a storage resource from a snapshot. HIGH Availability system, efficient and high performance.

#### **B. Description of Required NAS Features**

- The replacement NAS solution will have a maximum of 100TB. The environment platforms are as follows; Windows Operating Systems – Windows 2012, Windows 2016, and Windows 7 and Windows 10. For future use with other platforms like Red Hat Linux and Oracle Linux, and Oracle Database Version 11g & 12c.
- The NAS System should meet all electrical power and rack solution requirements, a four post universal rack that will accommodate the number of shelves required to meet the specified system storage.
- The NAS solution can support Thin Provisioning that will allow us to use and provision our storage space available from the connected systems than the actual size of the NAS storage system.
- The NAS should be RAID (Raid 6) capable that can prevent data loss when multiple drives failed and can provide the highest level of data protection.
- The NAS should be capable of built-in data replication and snapshots. Sometimes a simple file deletion to destruction of equipment can happen to data systems. With this said we need a system that can provide the least possible time to restore data. The maximum amount of time should not exceed 24hours but we are also interested in seeing solutions that are faster depending on pricing. The best situation would be to present three solution options: Option 1: 4hrs < t ≤ 24hrs, Option 2: 0 < t ≤ 4hrs and Option 3: Near Zero. We will choose only one solution option that makes the most sense for us.
- The NAS system can perform backup and restore capability, archiving capability. An included built-in or additional feature which can readily access from the console or command line to setup or edit policies and access backup logs. The NAS system should include these features and can be readily setup with a set of policies at the beginning that a minimum or no administration resource will be needed after.

- The NAS system must support multiple drive technology – SATA, SSD, Flash, we look for the best combination for the best performance of the new storage system.
- Monitoring and Reporting is one of the key features we are looking to maximize the performance by closely looking at the storage system. NAS should have an easy access integrated tool to monitor, troubleshoot and reporting features which will provide issues and or performance reports.
- Administration & Training - Before the production rollout, training is necessary to ensure our support personnel and team is equipped with the proper skills to maintain and support the NAS System. An on-site administration course might be required and can be conducted prior to the setup and implementation
- Support and Warranty - NAS should have a 1 year standard software and hardware warranty. A detailed optional 3 years extended software and hardware warranty, which will include the cost of each extended service contracts.
- An optional 24/7 technical support, & remote technical support, software support and guaranteed exchange and delivery of hard disk or spare parts when needed. A detailed description of services included, for example a Next Business Day, parts replacement and the number of hours on-site. Silicon Valley Power might need an estimated 12 hours of onsite support services.
- Provide quotation for services required for the initial setup and rollout to production. A complete details of the services provided are necessary as a checklist to ensure everything will be covered before the acceptance of the system. We require the associated cost in detailed list, for example the number of hours on-site and if initial training will be included.

### C. Required Proposal Components

1. All information set forth in Article 6 of the RFP

**ATTACHMENT B**  
**Proposer's Information Form**

PROPOSER (please print): \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_

FAX: \_\_\_\_\_

Contact person, title, telephone number, email address and fax number: \_\_\_\_\_

\_\_\_\_\_

Proposer, if selected, intends to carry on the business as (check one)

☐ Individual

☐ Joint Venture

☐ Partnership

☐ Corporation

When incorporated? \_\_\_\_\_

In what state? \_\_\_\_\_

When authorized to do business in California? \_\_\_\_\_

☐ Other (explain): \_\_\_\_\_

\_\_\_\_\_

**ADDENDA**

To assure that all Proposers have received each addendum, check the appropriate box (es) below. Failure to acknowledge receipt of an addendum/addenda may be considered an irregularity in the Proposal:

Addendum number(s) received:

☐ 1

☐ 2

☐ 3

☐ 4

☐ 5

☐ 6

Or,

☐ \_\_\_\_\_ No Addendum/Addenda Were Received (check and initial).

## PROPOSER'S SIGNATURE

No proposal shall be accepted which has not been signed in ink in the appropriate space below:

By signing below, the submission of a proposal shall be deemed a representation and certification by the Proposer that they have investigated all aspects of the RFP, that they are aware of the applicable facts pertaining to the RFP process, its procedures and requirements, and they have read and understand the RFP. No request for modification of the proposal shall be considered after its submission on the grounds that the Proposer was not fully informed as to any fact or condition.

**(1) If Proposer is *INDIVIDUAL*,  
Sign here:**

Date: \_\_\_\_\_

\_\_\_\_\_  
Proposer's Signature

\_\_\_\_\_  
Proposer's typed name and title

**(2) If Proposer is *PARTNERSHIP* or  
*JOINT VENTURE*, at least (2) Partners  
Or each of the Joint Venturers  
Shall sign here:**

\_\_\_\_\_  
Partnership or Joint Venture Name  
(Type or print)

Date: \_\_\_\_\_

\_\_\_\_\_  
Member of the Partnership or Joint  
Venture signature

Date: \_\_\_\_\_

\_\_\_\_\_  
Member of the Partnership or Joint  
Venture signature

**(3) If Proposer is a *CORPORATION*,  
the duly authorized officer(s) shall  
Sign as follows:**

The undersigned certify that they are  
respectively: \_\_\_\_\_ (Title)

and \_\_\_\_\_ (Title)

Of the corporation named below; that  
they are designated to sign the Proposal  
Cost Form by resolution (attach a  
certified copy, with corporate seal, if  
applicable, notarized as to its  
authenticity or Secretary's certificate of  
authorization) for and on behalf of the  
below named CORPORATION, and that  
they are authorized to execute same for  
and on behalf of said CORPORATION.

\_\_\_\_\_  
Corporation Name (type or print)

By: \_\_\_\_\_

Title: \_\_\_\_\_

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Dated: \_\_\_\_\_

**ATTACHMENT C**  
**Certification of Nondiscrimination**

As suppliers of goods or services to the City of Santa Clara, the firm and individuals listed below certify that they do not discriminate in employment of any person because of race, color, gender, age, religion, disability, national origin, ancestry, sexual orientation, housing status, marital status, or familial status; and that they are in compliance with all Federal, State and local laws, directives and executive orders regarding nondiscrimination in employment.

**(1) If Proposer is *INDIVIDUAL*,  
Sign here:**

Date: \_\_\_\_\_

\_\_\_\_\_  
Proposer's Signature

\_\_\_\_\_  
Proposer's typed name and title

**(2) If Proposer is *PARTNERSHIP* or  
*JOINT VENTURE*, at least (2) Partners  
or each of the Joint Venturers  
Shall sign here:**

\_\_\_\_\_  
Partnership or Joint Venture Name  
(type or print)

Date: \_\_\_\_\_

\_\_\_\_\_  
Member of the Partnership or Joint  
Venture signature

Date: \_\_\_\_\_

\_\_\_\_\_  
Member of the Partnership or Joint  
Venture signature

**(3) If Proposer is a *CORPORATION*,  
the duly authorized officer(s) shall  
sign as follows:**

The undersigned certify that they are  
respectively: \_\_\_\_\_ (Title)  
and \_\_\_\_\_ (Title)  
of the corporation named below; that  
they are designated to sign the Proposal  
Cost Form by resolution (attach a  
certified copy, with corporate seal, if  
applicable, notarized as to its  
authenticity or Secretary's certificate of  
authorization) for and on behalf of the  
below named CORPORATION, and that  
they are authorized to execute same for  
and on behalf of said CORPORATION.

\_\_\_\_\_  
Corporation Name (type or print)

By: \_\_\_\_\_

Title: \_\_\_\_\_

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Dated: \_\_\_\_\_



**ATTACHMENT D**  
**Agreement for Services**

Execution of Attachment D is required, as is set forth in Article 6 of the RFP.

[EBIX Insurance No. \*S20000\_\_\_\_\_]

**AGREEMENT FOR SERVICES**  
**between the**  
**CITY OF SANTA CLARA, CALIFORNIA,**  
**and**  
**\*INSERT CONTRACTOR'S NAME**

**PREAMBLE**

This Agreement is entered into between the City of Santa Clara, California, a chartered California municipal corporation (City) and \*insert Contractor's name, a[n] choose one: \_\_\_\_\_ (enter State name) corporation/partnership/individual, (Contractor). City and Contractor may be referred to individually as a "Party" or collectively as the "Parties" or the "Parties to this Agreement."

**RECITALS**

City desires to secure the services more fully described in this Agreement, at Exhibit A, entitled "Scope of Services";

Contractor represents that it, and its subcontractors, if any, have the professional qualifications, expertise, necessary licenses and desire to provide certain goods and/or required services of the quality and type which meet objectives and requirements of City; and,

The Parties have specified herein the terms and conditions under which such services will be provided and paid for.

The Parties agree as follows:

**AGREEMENT TERMS AND CONDITIONS**

**1. AGREEMENT DOCUMENTS**

The documents forming the entire Agreement between City and Contractor shall consist of these Terms and Conditions and the following Exhibits, which are hereby incorporated into this Agreement by this reference:

Exhibit A – Scope of Services

Exhibit B – Schedule of Fees

Exhibit C – Insurance Requirements

**2. TERM OF AGREEMENT**

Unless otherwise set forth in this Agreement or unless this paragraph is subsequently modified by a written amendment to this Agreement, the term of this Agreement shall begin on \* \_\_\_\_\_, 20\_\_ and terminate on \* \_\_\_\_\_, 20\_\_.

**3. SCOPE OF SERVICES & PERFORMANCE SCHEDULE**

Contractor shall perform those Services specified in Exhibit A within the time stated in Exhibit A. Time is of the essence.

**4. WARRANTY**

Contractor expressly warrants that all materials and services covered by this Agreement shall be fit for the purpose intended, shall be free from defect and shall conform to the specifications, requirements and instructions upon which this Agreement is based. Contractor agrees to promptly replace or correct any incomplete, inaccurate or defective Services at no further cost to City when defects are due to the negligence, errors or omissions of Contractor. If Contractor fails to promptly correct or replace materials or services, City may make corrections or replace materials or services and charge Contractor for the cost incurred by City.

**5. QUALIFICATIONS OF CONTRACTOR - STANDARD OF CARE**

Contractor represents and maintains that it has the expertise in the professional calling necessary to perform the Services, and its duties and obligations, expressed and implied, contained herein, and City expressly relies upon Contractor's representations regarding its skills and knowledge. Contractor shall perform such Services and duties in conformance to and consistent with the professional standards of a specialist in the same discipline in the State of California.

**6. COMPENSATION AND PAYMENT**

In consideration for Contractor's complete performance of Services, City shall pay Contractor for all materials provided and Services rendered by Contractor in accordance with Exhibit B, entitled "SCHEDULE OF FEES." The maximum compensation of this Agreement is \*spell out dollar amount (\$\*insert numerical dollar amount), subject to budget appropriations, which includes all payments that may be authorized for Services and for expenses, supplies, materials and equipment required to perform the Services. All work performed or materials provided in excess of the maximum compensation shall be at Contractor's expense. Contractor shall

not be entitled to any payment above the maximum compensation under any circumstance.

## **7. TERMINATION**

- A. Termination for Convenience. City shall have the right to terminate this Agreement, without cause or penalty, by giving not less than Thirty (30) days' prior written notice to Contractor.
- B. Termination for Default. If Contractor fails to perform any of its material obligations under this Agreement, in addition to all other remedies provided by law, City may terminate this Agreement immediately upon written notice to Contractor.
- C. Upon termination, each Party shall assist the other in arranging an orderly transfer and close-out of services. As soon as possible following the notice of termination, but no later than ten (10) days after the notice of termination, Contractor will deliver to City all City information or material that Contractor has in its possession.

## **8. ASSIGNMENT AND SUBCONTRACTING**

City and Contractor bind themselves, their successors and assigns to all covenants of this Agreement. This Agreement shall not be assigned or transferred without the prior written approval of City. Contractor shall not hire subcontractors without express written permission from City.

Contractor shall be as fully responsible to City for the acts and omissions of its subcontractors, and of persons either directly or indirectly employed by them, as Contractor is for the acts and omissions of persons directly employed by it.

## **9. NO THIRD PARTY BENEFICIARY**

This Agreement shall not be construed to be an agreement for the benefit of any third party or parties and no third party or parties shall have any claim or right of action under this Agreement for any cause whatsoever.

## **10. INDEPENDENT CONTRACTOR**

Contractor and all person(s) employed by or contracted with Contractor to furnish labor and/or materials under this Agreement are independent contractors and do not act as agent(s) or employee(s) of City. Contractor has full rights to manage its employees in their performance of Services under this Agreement.

## **11. CONFIDENTIALITY OF MATERIAL**

All ideas, memoranda, specifications, plans, manufacturing procedures, data, drawings, descriptions, documents, discussions or other information

developed or received by or for Contractor and all other written information submitted to Contractor in connection with the performance of this Agreement shall be held confidential by Contractor and shall not, without the prior written consent of City, be used for any purposes other than the performance of the Services nor be disclosed to an entity not connected with performance of the Services. Nothing furnished to Contractor which is otherwise known to Contractor or becomes generally known to the related industry shall be deemed confidential.

## **12. OWNERSHIP OF MATERIAL**

All material, which shall include, but not be limited to, data, sketches, tracings, drawings, plans, diagrams, quantities, estimates, specifications, proposals, tests, maps, calculations, photographs, reports, designs, technology, programming, works of authorship and other material developed, collected, prepared or caused to be prepared under this Agreement shall be the property of City but Contractor may retain and use copies thereof. City shall not be limited in any way or at any time in its use of said material. However, Contractor shall not be responsible for damages resulting from the use of said material for work other than Project, including, but not limited to, the release of this material to third parties.

## **13. RIGHT OF CITY TO INSPECT RECORDS OF CONTRACTOR**

City, through its authorized employees, representatives or agents shall have the right during the term of this Agreement and for four (4) years from the date of final payment for goods or services provided under this Agreement, to audit the books and records of Contractor for the purpose of verifying any and all charges made by Contractor in connection with Contractor compensation under this Agreement, including termination of Contractor. Contractor agrees to maintain sufficient books and records in accordance with generally accepted accounting principles to establish the correctness of all charges submitted to City. Any expenses not so recorded shall be disallowed by City. Contractor shall bear the cost of the audit if the audit determines that there has been a substantial billing deviation in excess of five (5) percent adverse to the City.

Contractor shall submit to City any and all reports concerning its performance under this Agreement that may be requested by City in writing. Contractor agrees to assist City in meeting City's reporting requirements to the State and other agencies with respect to Contractor's Services hereunder.

## **14. HOLD HARMLESS/INDEMNIFICATION**

- A. To the extent permitted by law, Contractor agrees to protect, defend, hold harmless and indemnify City, its City Council, commissions, officers, employees, volunteers and agents from and

against any claim, injury, liability, loss, cost, and/or expense or damage, including all costs and attorney's fees in providing a defense to any such claim or other action, and whether sounding in law, contract, tort, or equity, in any manner arising from, or alleged to arise in whole or in part from, or in any way connected with the Services performed by Contractor pursuant to this Agreement – including claims of any kind by Contractor's employees or persons contracting with Contractor to perform any portion of the Scope of Services – and shall expressly include passive or active negligence by City connected with the Services. However, the obligation to indemnify shall not apply if such liability is ultimately adjudicated to have arisen through the sole active negligence or sole willful misconduct of City; the obligation to defend is not similarly limited.

- B. Contractor's obligation to protect, defend, indemnify, and hold harmless in full City and City's employees, shall specifically extend to any and all employment-related claims of any type brought by employees, contractors, subcontractors or other agents of Contractor, against City (either alone, or jointly with Contractor), regardless of venue/jurisdiction in which the claim is brought and the manner of relief sought.
- C. To the extent Contractor is obligated to provide health insurance coverage to its employees pursuant to the Affordable Care Act ("Act") and/or any other similar federal or state law, Contractor warrants that it is meeting its obligations under the Act and will fully indemnify and hold harmless City for any penalties, fines, adverse rulings, or tax payments associated with Contractor's responsibilities under the Act.

## **15. INSURANCE REQUIREMENTS**

During the term of this Agreement, and for any time period set forth in Exhibit C, Contractor shall provide and maintain in full force and effect, at no cost to City, insurance policies as set forth in Exhibit C.

## **16. WAIVER**

Contractor agrees that waiver by City of any one or more of the conditions of performance under this Agreement shall not be construed as waiver(s) of any other condition of performance under this Agreement. Neither City's review, acceptance nor payments for any of the Services required under this Agreement shall be constructed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

## 17. NOTICES

All notices to the Parties shall, unless otherwise requested in writing, be sent to City addressed as follows:

City of Santa Clara  
Attention: \*Dept. Name  
1500 Warburton Avenue  
Santa Clara, CA 95050  
and by e-mail at \* \_\_\_\_\_@santaclaraca.gov, and  
manager@santaclaraca.gov

And to Contractor addressed as follows:

\*Name of Contractor  
\*Address of Contractor  
and by e-mail at \* \_\_\_\_\_@XXX

The workday the e-mail was sent shall control the date notice was deemed given. An e-mail transmitted after 1:00 p.m. on a Friday shall be deemed to have been transmitted on the following business day.

## 18. COMPLIANCE WITH LAWS

Contractor shall comply with all applicable laws and regulations of the federal, state and local government, including but not limited to "The Code of the City of Santa Clara, California" ("SCCC"). In particular, Contractor's attention is called to the regulations regarding Campaign Contributions (SCCC Chapter 2.130), Lobbying (SCCC Chapter 2.155), Minimum Wage (SCCC Chapter 3.20), Business Tax Certificate (SCCC section 3.40.060), and Food and Beverage Service Worker Retention (SCCC Chapter 9.60), as such Chapters or Sections may be amended from time to time or renumbered. Additionally Contractor has read and agrees to comply with City's Ethical Standards (<http://santaclaraca.gov/home/showdocument?id=58299>).

## **19. CONFLICTS OF INTEREST**

Contractor certifies that to the best of its knowledge, no City officer, employee or authorized representative has any financial interest in the business of Contractor and that no person associated with Contractor has any interest, direct or indirect, which could conflict with the faithful performance of this Agreement. Contractor is familiar with the provisions of California Government Code section 87100 and following, and certifies that it does not know of any facts which would violate these code provisions. Contractor will advise City if a conflict arises.

## **20. FAIR EMPLOYMENT**

Contractor shall not discriminate against any employee or applicant for employment because of race, sex, color, religion, religious creed, national origin, ancestry, age, gender, marital status, physical disability, mental disability, medical condition, genetic information, sexual orientation, gender expression, gender identity, military and veteran status, or ethnic background, in violation of federal, state or local law.

## **21. NO USE OF CITY NAME OR EMBLEM**

Contractor shall not use City's name, insignia, or emblem, or distribute any information related to services under this Agreement in any magazine, trade paper, newspaper or other medium without express written consent of City.

## **22. GOVERNING LAW AND VENUE**

This Agreement shall be governed and construed in accordance with the statutes and laws of the State of California. The venue of any suit filed by either Party shall be vested in the state courts of the County of Santa Clara, or if appropriate, in the United States District Court, Northern District of California, San Jose, California.

## **23. SEVERABILITY CLAUSE**

In case any one or more of the provisions in this Agreement shall, for any reason, be held invalid, illegal or unenforceable in any respect, it shall not affect the validity of the other provisions, which shall remain in full force and effect.

## **24. AMENDMENTS**

This Agreement may only be modified by a written amendment duly authorized and executed by the Parties to this Agreement.

**25. COUNTERPARTS**

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but both of which shall constitute one and the same instrument.

The Parties acknowledge and accept the terms and conditions of this Agreement as evidenced by the following signatures of their duly authorized representatives.

**CITY OF SANTA CLARA, CALIFORNIA**  
a chartered California municipal corporation

Approved as to Form:

Dated: \_\_\_\_\_

\_\_\_\_\_  
BRIAN DOYLE  
City Attorney

\_\_\_\_\_  
DEANNA J. SANTANA  
City Manager  
1500 Warburton Avenue  
Santa Clara, CA 95050  
Telephone: (408) 615-2210  
Fax: (408) 241-6771

"CITY"

**\*INSERT CONTRACTOR'S NAME**

\*choose one: a[n] \_\_\_\_\_ (insert State) corporation/partnership/individual

Dated: \_\_\_\_\_

By (Signature): \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Principal Place of  
Business Address: \_\_\_\_\_

Email Address: \_\_\_\_\_

Telephone: ( ) \_\_\_\_\_

Fax: ( ) \_\_\_\_\_

"CONTRACTOR"



## **EXHIBIT A SCOPE OF SERVICES**

The Services to be performed for the City by the Contractor under this Agreement are set forth below.

\*Insert Services to be performed

## **EXHIBIT B SCHEDULE OF FEES**

Contractor will bill City on a monthly basis for Services provided by Contractor during the preceding month on an invoice and in a format approved by City and subject to verification and approval by City. City will pay Contractor within thirty (30) days of City's receipt of an approved invoice.

\*NOTE: This Exhibit B should contain a schedule of rates and fees which includes all billing amounts and costs as follows (if applicable), such as:

- Fee Schedule Effective Date
- Hourly Billing Rates for Each Staff Position/Level
- Minimum Billing Hours
- Charges for Equipment by Day/Week/Month
- Travel Time and Costs
- Per Diem Expenses
- Expendable Material or New Parts Costs
- Outside Services Costs
- Overtime Costs

## **EXHIBIT C INSURANCE REQUIREMENTS**

Without limiting the Contractor's indemnification of the City, and prior to commencing any of the Services required under this Agreement, the Contractor shall provide and maintain in full force and effect, at its sole cost and expense, the following insurance policies with at least the indicated coverages, provisions and endorsements:

### **A. COMMERCIAL GENERAL LIABILITY INSURANCE**

1. Commercial General Liability Insurance policy which provides coverage at least as broad as Insurance Services Office form CG 00 01. Policy limits are subject to review, but shall in no event be less than, the following:  
  
\$1,000,000 Each Occurrence  
\$2,000,000 General Aggregate  
\$2,000,000 Products/Completed Operations Aggregate  
\$1,000,000 Personal Injury
2. Exact structure and layering of the coverage shall be left to the discretion of Contractor; however, any excess or umbrella policies used to meet the required limits shall be at least as broad as the underlying coverage and shall otherwise follow form.
3. The following provisions shall apply to the Commercial Liability policy as well as any umbrella policy maintained by the Contractor to comply with the insurance requirements of this Agreement:
  - a. Coverage shall be on a "pay on behalf" basis with defense costs payable in addition to policy limits;
  - b. There shall be no cross liability exclusion which precludes coverage for claims or suits by one insured against another; and
  - c. Coverage shall apply separately to each insured against whom a claim is made or a suit is brought, except with respect to the limits of liability.

### **B. BUSINESS AUTOMOBILE LIABILITY INSURANCE**

Business automobile liability insurance policy which provides coverage at least as broad as ISO form CA 00 01 with policy limits a minimum limit of not less than one million dollars (\$1,000,000) each accident using, or providing coverage at least as broad as, Insurance Services Office form CA 00 01. Liability coverage shall apply to all owned, non-owned and hired autos.

In the event that the Work being performed under this Agreement involves transporting of hazardous or regulated substances, hazardous or regulated wastes and/or hazardous or regulated materials, Contractor and/or its subcontractors involved in such activities shall provide coverage with a limit of two million dollars (\$2,000,000) per accident covering transportation of such materials by the addition to the Business Auto Coverage Policy of Environmental Impairment Endorsement MCS90 or Insurance Services Office endorsement form CA 99 48, which amends the pollution exclusion in the standard Business Automobile Policy to cover pollutants that are in or upon, being transported or towed by, being loaded onto, or being unloaded from a covered auto.

#### C. WORKERS' COMPENSATION

1. Workers' Compensation Insurance Policy as required by statute and employer's liability with limits of at least one million dollars (\$1,000,000) policy limit Bodily Injury by disease, one million dollars (\$1,000,000) each accident/Bodily Injury and one million dollars (\$1,000,000) each employee Bodily Injury by disease.
2. The indemnification and hold harmless obligations of Contractor included in this Agreement shall not be limited in any way by any limitation on the amount or type of damage, compensation or benefit payable by or for Contractor or any subcontractor under any Workers' Compensation Act(s), Disability Benefits Act(s) or other employee benefits act(s).
3. This policy must include a Waiver of Subrogation in favor of the City of Santa Clara, its City Council, commissions, officers, employees, volunteers and agents.

#### D. COMPLIANCE WITH REQUIREMENTS

All of the following clauses and/or endorsements, or similar provisions, must be part of each commercial general liability policy, and each umbrella or excess policy.

1. Additional Insureds. City of Santa Clara, its City Council, commissions, officers, employees, volunteers and agents are hereby added as additional insureds in respect to liability arising out of Contractor's work for City, using Insurance Services Office (ISO) Endorsement CG 20 10 11 85 or the combination of CG 20 10 03 97 and CG 20 37 10 01, or its equivalent.
2. Primary and non-contributing. Each insurance policy provided by Contractor shall contain language or be endorsed to contain wording making it primary insurance as respects to, and not requiring contribution from, any other insurance which the Indemnities may possess, including any self-insurance or self-

insured retention they may have. Any other insurance Indemnities may possess shall be considered excess insurance only and shall not be called upon to contribute with Contractor's insurance.

3. Cancellation.

a. Each insurance policy shall contain language or be endorsed to reflect that no cancellation or modification of the coverage provided due to non-payment of premiums shall be effective until written notice has been given to City at least ten (10) days prior to the effective date of such modification or cancellation. In the event of non-renewal, written notice shall be given at least ten (10) days prior to the effective date of non-renewal.

b. Each insurance policy shall contain language or be endorsed to reflect that no cancellation or modification of the coverage provided for any cause save and except non-payment of premiums shall be effective until written notice has been given to City at least thirty (30) days prior to the effective date of such modification or cancellation. In the event of non-renewal, written notice shall be given at least thirty (30) days prior to the effective date of non-renewal.

4. Other Endorsements. Other endorsements may be required for policies other than the commercial general liability policy if specified in the description of required insurance set forth in Sections A through D of this Exhibit C, above.

E. ADDITIONAL INSURANCE RELATED PROVISIONS

Contractor and City agree as follows:

1. Contractor agrees to ensure that subcontractors, and any other party involved with the Services who is brought onto or involved in the performance of the Services by Contractor, provide the same minimum insurance coverage required of Contractor, except as with respect to limits. Contractor agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this Agreement. Contractor agrees that upon request by City, all agreements with, and insurance compliance documents provided by, such subcontractors and others engaged in the project will be submitted to City for review.
2. Contractor agrees to be responsible for ensuring that no contract used by any party involved in any way with the project reserves the right to charge City or Contractor for the cost of additional insurance coverage required by this Agreement. Any such

3. The City reserves the right to withhold payments from the Contractor in the event of material noncompliance with the insurance requirements set forth in this Agreement.

Prior to commencement of any Services under this Agreement, Contractor, and each and every subcontractor (of every tier) shall, at its sole cost and expense, provide and maintain not less than the minimum insurance coverage with the endorsements and deductibles indicated in this Agreement. Such insurance coverage shall be maintained with insurers, and under forms of policies, satisfactory to City and as described in this Agreement. Contractor shall file with the City all certificates and endorsements for the required insurance policies for City's approval as to adequacy of the insurance protection.

Contractor or its insurance broker shall provide the required proof of insurance compliance, consisting of Insurance Services Office (ISO) endorsement forms or their equivalent and the ACORD form 25-S certificate of insurance (or its equivalent), evidencing all required coverage shall be delivered to City, or its representative as set forth below, at or prior to execution of this Agreement. Upon City's request, Contractor shall submit to City copies of the actual insurance policies or renewals or replacements. Unless otherwise required by the terms of this Agreement, all certificates, endorsements, coverage verifications and other items required to be delivered to City pursuant to this Agreement shall be mailed to:

Telephone number: 951-766-2280  
Fax number: 770-325-0409  
Email address: [ctsantaclara@ebix.com](mailto:ctsantaclara@ebix.com)

## Page 30 of 31

**ATTACHMENT E**  
**Sample Cost Proposal Format**

**NAS System and Support Cost Proposal**

Description	QTY	Cost
NAS Solution Hardware		
NAS Solution Software + OS		
Optional Software		
Services		
Initial setup labor (if separate)		
Training (if separate)		
Year 2 Warranty (Maintenance & Support) Includes _____ hours of labor		
Year 3 Warranty (Maintenance & Support) Includes _____ hours of labor		
Year 4 Warranty (Maintenance & Support) Includes _____ hours of labor		
Year 5 Warranty (Maintenance & Support) Includes _____ hours of labor		
____ Years Warranty (Maintenance & Support) Includes _____ hours of labor		
Additional _____ hours of labor		
Replacement parts		
(Optional) Additional Cost Description _____		
Total		

Labor Rate			
Description	QTY	Rate	
Straight Time Labor Rate			\$/hour
Overtime Labor Rate			\$/hour
Double Time Labor Rate			\$/hour
Travel ( if applicable)			\$/day
Subsistence (if applicable)			\$/day
Mileage (if applicable)			\$/mile

**Rate Sheets and other Standard Pricing Items**

Please attach current standard rate sheets